

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

MATTHEW THOMPSON,

Plaintiff,

v.

Case No.: 4:14-cv-465-RH-GRJ

B. SMITH, et al.,

Defendants.

DEFENDANTS' ANSWER,
AFFIRMATIVE DEFENSES, AND DEMAND FOR JURY TRIAL

Defendants **Smith, Sikes, and Price** ¹ (collectively “Defendants”), through undersigned counsel, answer Plaintiff’s second amended complaint (hereinafter “Complaint”), Doc. 43, as follows:

ANSWER

Defendants deny all allegations contained in the Complaint unless specifically admitted herein.

I. PLAINTIFF

Admit, to the best of their knowledge, that the information contained in this section is accurate.

II. DEFENDANTS

¹ Defendant Atkins was dismissed with prejudice as a defendant in this action. [Doc. 55].

Admit that Smith, Sikes, and Price are defendants in this action. Deny regarding Atkins as he has been dismissed as a defendant to this action.

III. EXHAUSTION OF ADMINISTRATIVE REMEDIES

No response necessary.

IV. PREVIOUS LAWSUITS

Without knowledge as to whether this section is representative of the extent of Plaintiff's litigation history, therefore denied.

NOTICE OF PROTEST

Plaintiff has included a page in his Complaint entitled "Notice of Protest" that is directed at this Court. To the extent the Plaintiff raises any allegations against the Defendants, Defendants deny.

V. STATEMENT OF FACTS

1. Denied.
2. Without knowledge therefore denied.
3. Without knowledge therefore denied.
4. Admit, based on documentation, that Plaintiff was written a Disciplinary Report ("DR") for "disrespect to officials" on March 10, 2014. Denied as to the remainder of the allegations in this paragraph.
5. Admit, based on documentation, that Plaintiff was written a Disciplinary Report ("DR") for "disrespect to officials" on March 10, 2014.

Denied or without knowledge therefore denied as to the remainder of the allegations in this paragraph.

6. Admit, based on documentation, that Plaintiff was written a Disciplinary Report (“DR”) for “disrespect to officials” on March 10, 2014. Denied as to the remainder of the allegations in this paragraph.

7. Denied.

8. Admit, based on documentation, that Plaintiff was written a Disciplinary Report (“DR”) for “disrespect to officials” on March 10, 2014. Denied or without knowledge therefore denied as to the remainder of the allegations in this paragraph.

9. Without knowledge therefore denied.

10. Denied with respect to the existence of a conspiracy and with respect to the drafting of a false statement. Without knowledge concerning the grievance responses as no specific grievance log numbers were specified, therefore denied. Additionally, Atkins has been dismissed as a defendant to this action, therefore, Defendants deny with respect to any allegations not pertaining to them.

11. Admit, based on documentation, that Plaintiff was written a Disciplinary Report (“DR”) for “disrespect to officials” on March 10, 2014. Denied or without knowledge therefore denied as to the remainder of the allegations in this paragraph.

12. Admit, based on documentation, that on March 16, 2014 Plaintiff was sprayed with chemical agents due to his refusal to obey multiple commands to cease his disruptive behavior of yelling in the confinement wing, cursing at staff, and inciting other inmates to join in the disturbance. Without knowledge concerning the grievance responses as no specific grievance log numbers were specified, therefore denied. Denied or without knowledge therefore denied as to the remainder of the allegations in this paragraph.

13. Without knowledge therefore denied.

14. Denied.

15. No response necessary as this Paragraph appears to be directed at this Court. To the extent allegations are made against the Defendants, Denied.

16. No response necessary as this Paragraph appears to be directed at this Court. To the extent allegations are made against the Defendants, Denied.

17. Denied regarding the reasoning for Plaintiff's dismissal of prior cases, denied that Plaintiff's legal files were stolen by Defendants. Denied or without knowledge therefore denied as to the remainder of the allegations in this paragraph.

18. Denied.

19. No response necessary as this Paragraph appears to be directed at this Court. To the extent allegations are made against the Defendants, Denied. Denied

or without knowledge therefore denied as to the remainder of the allegations in this paragraph.

20. No response necessary as this Paragraph appears to be directed at this Court. To the extent allegations are made against the Defendants, Denied. Denied or without knowledge therefore denied as to the remainder of the allegations in this paragraph.

VI. STATEMENT OF CLAIMS

Denied that any conduct by Defendants violated Plaintiff's constitutional rights.

VII. RELIEF REQUESTED

Denied that Plaintiff is entitled to any relief.

VIII. EXHIBITS ATTACHED TO COMPLAINT

To the extent that the Plaintiff raises any allegations against the Defendants within the exhibits attached to the amended complaint (pages 12-26), denied; and remainder without knowledge, therefore denied.

AFFIRMATIVE DEFENSES

1. Plaintiff failed to state a claim upon which relief can be granted.
2. Plaintiff has not been denied any rights that are protected by the United States Constitution or any portion of the United States Code.
3. Plaintiff failed to demonstrate a causal connection between Plaintiff's

claimed injuries and action or inaction by Defendants.

4. Plaintiff did not suffer a physical injury to be entitled to compensatory or punitive damages under 42 U.S.C. § 1997e(e). Plaintiff failed to establish any constitutionally cognizant injury and is not entitled to any damages or costs.

5. Plaintiff failed to exhaust administrative remedies.

6. Plaintiff failed to mitigate damages.

7. Defendants acted reasonably within the discretion of their positions and the course and scope of employment and did not violate any clearly established statutory or constitutional right of the Plaintiff with which a reasonable person would have known, and therefore are entitled to qualified immunity from suit.

8. Defendants are entitled to Eleventh Amendment Immunity regarding any official capacity claims.

RESERVATION OF RIGHTS TO AMEND AND SUPPLEMENT

Defendants reserve the right to amend and supplement these affirmative defenses adding such additional affirmative defenses as may appear to be appropriate upon further discovery being conducted in this case.

DEMAND FOR JURY TRIAL

Defendants demand trial by jury on all issues so triable.

Respectfully submitted,

PAMELA JO BONDI
ATTORNEY GENERAL

/s/ Mark S. Urban

MARK S. URBAN

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing was filed electronically and furnished by U. S. Mail to: Matthew Thompson, DC# R64543, Walton Correctional Institution, 691 Institution Road, DeFuniak Springs, Florida 32433-1831, on December 8, 2016.

/s/ Mark S. Urban

MARK S. URBAN